

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Ernest Lipscomb on 4/18/05.

The application has been amended as follows:

The title at the top of page 1 has been changed to :

--Method for Using Human Intervertebral Disc Cells---

Claim 39 is amended to: -- A method of implanting human intervertebral disc cells into a patient with damaged or diseased intervertebral disc tissue comprising the steps of:

obtaining live human intervertebral disc cells;

culturing said live human intervertebral disc cells under conditions to propagate cultured

human intervertebral disc cells; and

implanting said cultured live human intervertebral disc cells into a target disc area needing treatment in a human patient.---

Claim 49 has been cancelled.

Claim 50 is amended to: -- The method according to Claim [49] 47, wherein said carrier material is selected from the group consisting of alginate, agarose, collagen, and mixtures thereof.---

2. The following is an examiner's statement of reasons for allowance: No two-way obviousness exists between that claimed in U.S. Patent 6,340,369 B1 and the instant application.